UNITED
NATIONS

E

Economic and Social
Council

Distr
GENERAL

E/CN.4/2000/98
20 January 2000

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-sixth session
Item 18 (a) of the provisional agenda

EFFECTIVE FUNCTIONING OF HUMAN RIGHTS MECHANISMS: TREATY BODIES

Report of the Secretary-General on the consultations conducted in respect of the report of the independent expert on enhancing the long-term effectiveness of the United Nations human rights treaty system

GE.00-10273 (E)

CONTENTS

		Paragraphs	Page
I	INTRODUCTION	1 - 4	3
II	SUMMARY OF THE RECOMMENDATIONS OF THE INDEPENDENT EXPERT AND COMMENTS RECEIVED THEREON	5 - 56	4
	A Towards universal ratification	5 - 7	4
	B The reporting process the problem of significantly overdue reports, dealing with the timely submission of reports and and consolidation of reports	8 - 23	4
	C Problems in relation to documentation	24 - 26	8
	D Development and use of electronic databases	27 - 28	8
	E Public information	29 - 30	8
	F Advisory services	31 - 33	9
	G Special reports	34 - 35	10
	H Consolidation of treaty bodies	36 - 37	10
	I Amending the treaties	38 - 39	10
	J The language question	40 - 41	11
	K Cooperation with the specialized agencies and other bodies	42 - 48	11
	L The quality of concluding observations	49 - 50	13
	M Other issues	51 - 56	13
III	OBSERVATIONS	57 - 65	14

I. INTRODUCTION

1. The original study on the effective operation of existing and prospective bodies established under United Nations human rights instruments was initiated pursuant to General Assembly resolution 43/115 of 8 December 1988 and Commission on Human Rights resolution 1989/47, carried out by Mr. Philip Alston during the period 1989 to 1992 and transmitted to the General Assembly in document A/44/668, annex.

2. In its resolution 47/111 of 16 December 1992, the General Assembly requested that the report be updated for submission to the fiftieth session of the Commission on Human Rights and that an interim report be presented to the General Assembly at its forty-eighth session, and be made available to the World Conference on Human Rights in June 1993. Pursuant to that resolution, as well as Commission on Human Rights resolution 1993/16 of 26 February 1993, Mr. Alston undertook to update his original study, submitting an interim report thereon in document A/CONF.157/PC/62/Add.11/Rev.1 and a final report in document E/CN.4/1997/74, which was submitted to the fifty-third session of the Commission on Human Rights in 1997. By its decision 1997/105, the Commission on Human Rights invited the Secretary-General to solicit the views of Governments, United Nations bodies, specialized agencies, intergovernmental and non-governmental organizations and interested persons on the report of the independent expert and to submit a report thereon, including the Secretary-General's own views on the legal, administrative and other implications of the report's recommendations, to the Commission on Human Rights at its fifty-fourth session. That report was submitted in document E/CN.4/1998/85 and Add.1 and Corr.1.

3. In its resolution 1998/27, the Commission on Human Rights invited the Secretary-General to continue to solicit the views of Governments, United Nations bodies, specialized agencies, intergovernmental and non-governmental organizations and interested persons on the report of the independent expert and to submit a further report thereon, including the Secretary-General's own views on the legal, administrative and other implications of the report's recommendations, to the Commission on Human Rights at its fifty-sixth session. The General Assembly, in its resolution 53/138, also invited the Secretary-General to continue to solicit views on the report of the independent expert. The present report contains a summary of the comments and observations provided by those consulted pursuant to the above resolutions and relates additional views of the Secretary-General on the implications of the report's recommendations. The present report therefore updates the comments contained in documents E/CN.4/1998/85 and Add.1 and Corr.1 and should be read together with them.

4. Comments were received from the Governments of Cuba and New Zealand. Comments were also received from the Joint United Nations Programme on HIV/AIDS (UNAIDS) and the United Nations Educational, Scientific and Cultural Organization (UNESCO). Comments have been received from the following "interested person", in the meaning of Commission on Human Rights resolution 1998/27: Mr. Ion Diaconu, member of the Committee on the Elimination of Racial Discrimination. The full texts of these comments are available for consultation in the files of the Secretariat.

II. SUMMARY OF THE RECOMMENDATIONS OF INDEPENDENT EXPERT AND COMMENTS RECEIVED THEREON

A. Towards universal ratification

Recommendations of the independent expert

5. According to the independent expert, universal ratification of the six core United Nations human rights treaties would establish the best possible foundation for international endeavours to promote respect for human rights. In his final report, he made four specific recommendations: (a) consultations with the leading international agencies to explore their potential involvement in a ratification campaign, (b) appointment of special advisers on ratification and reporting and the earmarking of funds for those purposes, (c) examination of special measures to streamline the reporting process for States with small populations, and (d) granting particular attention to other substantial categories of non-parties (E/CN.4/1997/74, paras. 14, 31-35, 111).

Government comments

6. The Government of Cuba was of the view that efforts to achieve universal ratification of the human rights treaties should not be limited to the six that are referred to as the "principal" human rights treaties, in the view of the Government erroneously so. It expressed concern that the reorientation of technical cooperation programmes of the United Nations in the field of human rights towards promotion of ratification would mean a diversion of scarce funds away from the priorities established by the countries requesting assistance.

Comments by United Nations agencies and bodies

7. UNAIDS acknowledged the importance of respect for human rights in the context of its policy and programmes, as well as those of its co-sponsors. UNAIDS had long emphasized that the fulfilment of human rights, in addition to its own inherent value, was crucial to combating the spread of the virus and lessening the impact on those already infected. While welcoming the activities of one of its co-sponsors, UNICEF, in promoting the universal ratification of the Convention on the Rights of the Child, UNAIDS agreed that agencies should be further encouraged to promote ratification of the core treaties that have not yet been as widely ratified as that Convention. UNAIDS expressed support for the suggestion of the independent expert that the High Commissioner for Human Rights should consult with the agencies to ascertain what initiatives, if any, agencies were prepared to undertake in order to encourage States with which they were dealing to ratify the core treaties.

B. The reporting process: the problem of significantly overdue reports, dealing with the timely submission of reports and consolidation of reports

Recommendations of the independent expert

8. The independent expert pointed out that non-reporting had reached chronic proportions. He suggested that, in addition to considering reforms to the overall system, a new specially tailored project for the provision of advisory services should be designed and implemented. In

responding to cases of persistent delinquency, all treaty bodies should be urged to adopt procedures which would eventually lead to the examination of country situations even in the absence of a report. Such an approach should reflect thorough research and lead to detailed, accurate and comprehensive "concluding observations" (ibid., paras. 37-45, 47, 112).

9. The independent expert noted that the present reporting system functioned only because of the large-scale delinquency of States which either did not report at all, or reported long after the due date. If many were to report, significant existing backlogs would be exacerbated, and major reforms would be needed even more urgently (ibid., paras. 48-52).

10. The independent expert presented several options that were available to States to address the problems of the reporting system (ibid., para. 120 and para. 36 of the present report). Among the steps suggested towards far-reaching reform were the preparation of "consolidated reports" or the elimination of comprehensive periodic reports in their present form and replacement by reporting guidelines tailored to each State's individual situation.

Government comments

11. The Government of Cuba agreed that the present system was unsustainable. It stressed, however, that constructive, frank and transparent dialogue was the only way to guarantee the climate of cooperation necessary for the effective implementation of international treaties. The Government considered the practice of some treaty bodies of examining States parties' reports in the absence of representatives of the State concerned to violate basic norms of due process and turn the constructive dialogue into a punitive process. According to the Government, strengthening of the reporting process in a meaningful way could only be done through its rationalization and simplification.

12. The Government of Cuba considered that the main source of information to be considered by treaty bodies should be that provided by States parties, whether in their periodic reports or in the additional information often provided at the request of a treaty body. When committees made use of other sources of information, the Government believed that it should be, as a minimum, transmitted to the State party concerned. Transparency in the processing of information and the public scrutiny of such sources were of vital importance in preventing political manipulation of the activities of treaty bodies and in fostering a climate of cooperation and mutual confidence in relations with States parties. It called upon the treaty bodies to embark, with urgency, on the elaboration of clear guidelines concerning the admissibility of information provided by sources other than States parties.

13. The Government of Cuba agreed on the need to improve the methodology for the preparation of periodic reports by establishing as far as possible common guidelines among the various bodies and avoiding duplication on the matters on which States were required to report. The Government was opposed to the possibility that treaty bodies should elaborate selective criteria that differentiated among States parties when reports were requested from them. It also opposed the recommendation for consolidation of reports before the various treaty bodies, as the special competencies of each body in concrete areas of human rights would be lost.

14. The Government of Cuba suggested that the average periodicity of reports due under the treaties of four years could be extended. That would not only alleviate the heavy burden facing States parties and treaty bodies today in preparing and examining reports, respectively, but would also allow more time in which the policies and programmes adopted upon recommendations of treaty bodies could bear fruit.

15. The Government of New Zealand identified overdue or non-reporting by States parties as a problem to be addressed as a matter of priority. It considered that the delays in the examination of reports by treaty bodies not only undermined the effectiveness of the reporting system, which relied on timely and regular consideration of reports and feedback to Governments, but also served as a disincentive to compliance with reporting deadlines. In some cases, especially in small and developing States, it believed the key difficulty in complying with reporting obligations was administrative incapacity. There was also concern that the reporting burden might act as a disincentive to ratification and was therefore a barrier to achieving universal ratification of the human rights treaties. The Government stressed that urgent steps needed to be taken to address the difficulties facing States in meeting their current reporting obligations, and to encourage non-reporting States to report. Procedural and substantive reforms to improve the effectiveness and efficiency of the treaty bodies, particularly those aimed at ensuring timely consideration of reports once submitted, would encourage compliance with reporting obligations and deadlines. The Government suggested that urgent attention be given to the following areas: reducing the reporting burden by streamlining periodic reporting requirements and reducing duplication; improving the working methods of the treaty bodies; and providing adequate resources and administrative support from the regular budget of the United Nations.

16. With respect to the first matter, the Government of New Zealand supported moves towards shorter and more focused reports concentrating on significant new developments, themes of interest and concerns identified by the treaty bodies. It also considered that harmonization of reporting dates and cycles could contribute to reducing duplication and facilitate presentation of the comprehensive situation. In addition, the Government encouraged adoption of the following additional steps: consistent application of a policy of examining the situation in non-reporting States parties in the absence of a report (as was the practice of the Committee on Economic, Social and Cultural Rights) and accommodation of consolidated reporting when more than one report was owed.

17. With respect to its suggestion for improvement of the working methods of the treaty bodies, the Government of New Zealand acknowledged the ongoing efforts of the treaty bodies to improve their working methods, including through delegation of work to pre-sessional working groups and refinement of rules of procedure, and recognized that there was little meeting time available for treaty bodies to deliberate on ways of improving working methods in addition to discharging their core functions. It nevertheless believed that the treaty bodies had a key role to play in identifying ways of overcoming the problems facing them and encouraged the chairpersons to take initiatives in producing coordinated plans for reform and improvements that could be speedily and uniformly implemented.

18. Finally, the Government of New Zealand highlighted the need for provision of adequate resources and administrative support to the treaty bodies to enable them to adequately discharge

their functions. While it welcomed the increased allocation of funding to OHCHR, which serviced the Geneva-based treaty bodies, the Government stressed that the treaty bodies were at the centre of the United Nations human rights machinery and that the necessary additional resources should therefore be provided from the regular budget of the United Nations.

19. Other areas identified by the Government of New Zealand as requiring priority attention are dealt with elsewhere under the relevant sections of the present report.

Comments by United Nations agencies and bodies

20. UNAIDS agreed that large-scale non-reporting undermined the purpose of the reporting system. It thus supported the proposal that advisory assistance in the preparation of reports be provided to States parties. It also supported the approach, for States parties persistently failing to report, of treaty bodies determining, on a case-by-case basis, whether to proceed with the examination of the situation in those States in the absence of a report. Further, UNAIDS welcomed the suggestion to eliminate the requirement for comprehensive States parties' reports. To this end, it agreed that States parties should be requested to submit an initial comprehensive report but that subsequent reports could be specifically tailored in accordance with the particular situation in each country. In this way, the dialogue between treaty bodies and States parties could be focused on specific issues, such as HIV/AIDS, and the time required by States parties to prepare periodic reports could be reduced.

Comments by interested persons

21. Mr. Diaconu stated that the number of reports due under the treaties, as presented in table 1 of the report of the independent expert, misrepresented the reports due under the International Convention on the Elimination of All Forms of Racial Discrimination. Since several overdue reports could be combined in a single submission under this treaty, each State party would only need to submit a single report to be up to date. In effect, as there were approximately 100 States parties with reports overdue in 1998, the number of reports overdue should be counted at about 100. He further noted that the Committee on the Elimination of Racial Discrimination was managing to examine States parties' reports within one year of submission, on average.

22. Mr. Diaconu considered the proposal for consolidation of reports due under all treaties impractical. Such an approach would make the processes of preparation and examination of reports cumbersome for both States parties and treaty bodies. The specific, specialized focus of the dialogue that treaty bodies and States parties now engage in would also be diminished.

23. Mr. Diaconu suggested that one useful approach could be to generalize the practice of requesting from States parties updating reports in place of comprehensive reports. Exceptions to this practice would be initial and special reports. He favoured requesting reports that focused on issues determined by treaty bodies, which would limit themselves to problems specific to each State party. Such issues could be those raised as concerns in concluding observations, or they could be specially formulated by treaty bodies.

C Problems in relation to documentation

Recommendations of the independent expert

24 The independent expert suggested that the proposed limits on documentation were unworkable within the context of existing procedures He expressed the view that the issue needed to be dealt with in a far more transparent manner than has so far been the case and full justification for any cuts needed to be provided The Secretariat should draw up a detailed options paper to enable the committees to consider measured and innovative responses (ibid , paras 53-54, 114)

25 In addition, the independent expert drew attention to the large volume of documentation furnished to treaty bodies that was not recorded officially and called for appropriate measures to be devised by the Secretariat He considered the preparation of summary records to be an indispensable element in the system and recommended that their timely preparation should be accorded priority The continued production of bound and edited volumes of Official Records of the Human Rights Committee (previously known as Yearbooks) was difficult to justify at a time of financial stringency Priority should be accorded to transferring the existing data onto electronic databases and ensuring the timely publication, including in electronic form, of all summary records as soon as they are available (ibid , paras 55, 58-59, 115)

26 No comments were received on this subject

D Development and use of electronic databases

Recommendations of the independent expert

27 The independent expert considered the new home page of the Office of the High Commissioner for Human Rights to be an unduly delayed but very welcome development He recommended that it be maintained and expanded and that a strategy to widen access be devised Future development of the database should reflect a more systematic, consultative and transparent process than had hitherto been the case An expert seminar should be convened for that purpose and an external advisory group appointed UNHCR and the ILO should consider making their valuable databases available on the Web to the human rights community and others (ibid , paras 60-66, 116)

28 No comments were received on this subject

E Public information

Recommendations of the independent expert

29 The independent expert considered the public information materials relating to the work of the treaty bodies to be highly inadequate He recommended that the treaty bodies should be given a direct input into future decision-making in this regard He further recommended that a public information budget be made available to support grass-roots initiatives designed to disseminate information about the treaty bodies in culturally appropriate and more popular

formats and media Partnerships with academic and other external institutions should be explored in order to enhance the publications programme An external advisory group should be asked to review the human rights-related publications programme and make recommendations The Secretary-General should report on the actual availability of treaty body-related materials at United Nations information centres (ibid , paras 66-71, 117)

30 No comments were received on this subject

F Advisory services

Recommendations of the independent expert

31 The independent expert considered that the advisory services programme had not provided sufficient support for surveys required prior to ratification of a human rights treaty or for the preparation of reports by States in need of assistance Regional and subregional training courses in relation to reporting were unlikely to produce results commensurate with their cost He recommended that a specially designed programme be devised to address the needs in this area and that it be accorded priority (ibid , paras 72-77, 118)

Comments by Governments

32 The Government of New Zealand agreed on the importance of providing technical assistance to States, especially small developing countries, in meeting their reporting requirements, both in respect of preparing and presenting reports It believed that greater priority should be given to enhancing coordination of efforts to provide technical assistance to States in this area and encouraged greater information-sharing and cooperation among the various intergovernmental, governmental and non-governmental organizations involved in providing such assistance

Comments by United Nations agencies and bodies

33 UNAIDS welcomed the independent expert's suggestion that advisory services or technical cooperation in the field of human rights could be provided to States that did not have the administrative capacity, technical expertise or financial resources required to prepare the reports UNAIDS proposed that such courses be integrated into comprehensive technical cooperation projects and programmes at the national level In this connection, UNAIDS and its co-sponsors, in collaboration with the Office of the High Commissioner for Human Rights, could explore possibilities of developing cooperative training and advisory activities in the field of HIV/AIDS-related human rights Such cooperation would contribute to integrating HIV/AIDS in human rights programmes and vice versa This in turn would reduce overlap of activities in the United Nations system and maximize available human and financial resources

G. Special reports

Recommendations of the independent expert

34. The independent expert recommended that the effectiveness of "special reports" and "urgent procedures" should be carefully evaluated by the committees concerned. At present, the value they added seemed low. In general, the division of labour between the treaty bodies and special mechanisms should be maintained (ibid., paras. 78-79, 119).

Comments by interested persons

35. Mr. Diaconu stated that while each treaty body should decide on its own procedure for requesting special reports, such a procedure should be used only in exceptional circumstances and in a way that did not duplicate the examination of periodic reports.

H. Consolidation of treaty bodies

Recommendations of the independent expert

36. The independent expert contended that in light of current trends the existing reporting system was unsustainable. He presented four options that were available to States: (a) to dismiss the concern as alarmist and take no action; (b) to urge the treaty bodies to undertake far-reaching reforms and adapt to cope with existing and new demands from within existing resources; (c) to provide greatly enhanced budgetary resources to sustain the status quo; (d) to combine some elements of (b) and (c) with the adoption of some far-reaching reforms. The latter could include: the preparation of "consolidated reports" (see section B of this report); elimination of comprehensive periodic reports in their present form and replacement by reporting guidelines tailored to each State's individual situation (see section B of this report); and a consolidation (reduction) of the number of treaty bodies. If the political will existed in relation to the last, a small expert group should be convened to examine modalities (ibid., paras. 81-97, 120).

37. No comments were received on this subject.

I. Amending the treaties

Recommendations of the independent expert

38. The independent expert suggested that it would be helpful for the procedural provisions of human rights treaties to be made more susceptible to amendment. A number of recommendations were suggested in his report on particular areas that could be simplified through amendment (ibid., para. 101).

39. No comments were received on this subject.

J. The language question

Recommendations of the independent expert

40. The independent expert considered that the importance of maintaining linguistic diversity in the treaty bodies was, for many reasons, beyond doubt. However, in the absence of a substantial increase in funds for interpretation, he believed there was a clear need for the different committees to explore ways in which working groups and other non-plenary meetings could be held without official translation. He suggested that greater emphasis should be attached to the ability of nominees for election to the treaty bodies to work in at least one, and preferably two, of the three major languages: English, French and Spanish. Ways would have to be found in which the content of materials available in only one language could be drawn upon more efficiently for the benefit of the whole committee. Consideration would need to be given to delegating certain responsibilities to working groups capable of working without translation (ibid., para. 106).

Government comments

41. The Government of Cuba maintained that only through respect for diversity could universality be achieved. It held the view that linguistic plurality should therefore also be guaranteed, in all stages of the work of treaty bodies.

K. Cooperation with the specialized agencies and other bodies

Recommendations of the independent expert

42. The independent expert recommended that the Commission on Human Rights should request the High Commissioner to convene a high-level meeting over a period of two days of senior representatives of the key specialized agencies and other bodies (including ILO, WHO, FAO, UNESCO, UNICEF, UNHCR, UNDP, UNFPA and the World Bank), senior staff of the Office of the High Commissioner for Human Rights and the chairpersons of the six treaty bodies. In order to minimize costs and capitalize on other coordination efforts, the meeting should take place immediately before or after one of the annual meetings of the chairpersons. The purpose should be to explore the most constructive, appropriate, cost-effective, and mutually rewarding means of cooperation between these bodies and the human rights committees (ibid., para. 108).

Government comments

43. The Government of Cuba, while acknowledging that some treaties contain provisions establishing ties between the expert bodies monitoring their implementation and certain operational parts of the United Nations system working on questions of development, expressed the view that in the majority of treaties those ties were intended to limit the possibility that the agencies, funds and programmes of the United Nations would, at the request of the treaty bodies, present information on their activities. The Government considered it a concern for countries from the South that the nature of those ties could be altered.

44. In particular, the Government of Cuba drew attention to the possibility that the so-called "rights-based approach" might change the priorities of the agencies, funds and programmes to the detriment of the long-term structural needs of developing countries. Bearing in mind that the human rights treaties essentially address the relationship between the individual and the State, new demands would be placed upon Governments of countries from the South without any guarantee that additional financial resources would be mobilized for international efforts for their development needs, which was necessary for the full realization of the rights enunciated in the treaties. The Government further suggested that, as the activities of the agencies, funds and programmes were concentrated in developing countries, should there be established an efficient system for following up on the recommendations of the treaty bodies, the system should be established in such a way as to exert equal influence in countries of the North as on those of the South.

45. The Government of Cuba stated that the intention of conferring upon the concluding observations and recommendations of the treaty bodies a nature that served as valid directives for the activities of the agencies, funds and programmes in the field amounted in practice to questioning the authority of their intergovernmental governing bodies to direct those organizations. Finally, the Government stated that concluding observations of the treaty bodies held no automatic relevance for the work of other components of the United Nations system. For that, explicit endorsement from a resolution or decision of the General Assembly was necessary.

46. The Government of New Zealand considered the benefits of improved cooperation between the treaty bodies and other parts of the United Nations system to be entirely appropriate where different bodies were working towards the same objective, namely the promotion and protection of human rights as established by international law. Mechanisms for regular dialogue, both among treaty bodies and between them and other United Nations bodies, needed to be developed and sustained. In this regard, the Government of New Zealand attached importance to the useful role that the regular coordinating meetings of the chairpersons of human rights treaty bodies could play in promoting debate on ways in which the system could be improved.

Comments by United Nations agencies and bodies

47. UNAIDS endorsed the proposal that the High Commissioner convene high-level meetings of senior representatives of the key specialized agencies and other bodies, including UNAIDS and its co-sponsors, and the chairpersons of the six treaty bodies. Such meetings could prove useful in, inter alia, exploring possible cooperation between agencies and the treaty bodies as a means to streamline and enhance the work of the treaty bodies in this area. Furthermore, UNAIDS considered it particularly important that agencies and non-governmental organizations provide input to the pre-sessional working groups of the treaty bodies. Additional information could be presented in oral or written form on States parties' reports, thereby enhancing the focus on specific areas of concern, including on issues related to HIV/AIDS.

48. The United Nations Educational, Scientific and Cultural Organization (UNESCO) expressed support for the organization of a high-level meeting of senior representatives of the key specialized agencies and other bodies, including UNESCO, and senior staff of the Office of the High Commissioner for Human Rights, with a view to strengthening inter-agency cooperation in the field of human rights.

L. The quality of concluding observations

Recommendations of the independent expert

49. The independent expert recommended that treaty bodies should strive to further improve the quality of their concluding observations, in terms of their clarity, degree of detail, level of accuracy and specificity (ibid., paras. 109 and 122).

Comments by United Nations agencies and bodies

50. UNAIDS agreed that concluding observations needed to be more focused, specific and accurate. Such concluding observations would be invaluable in ensuring effective implementation of recommendations at national level and enhancing dialogue with States parties on issues such as HIV/AIDS.

M. Other issues

51. Several responses raised issues that were not the subject of recommendations in the final report of the independent expert. Those views are summarized in this section.

Government comments

52. With respect to the question of geographical distribution of membership in the treaty bodies, the Government of Cuba drew attention to the alarming over-representation of the Western and Other Group in most of the treaty bodies. It invited the States parties to the various international instruments, as well as all States Members of the United Nations, to consider measures to establish a system of quotas based on equitable geographical distribution of the membership, based on the geographical distribution of the States parties to the various treaties. The quotas established under such a system could be periodically reviewed to reflect any changes in the composition of States parties that may arise.

Comments by United Nations agencies and bodies

53. UNAIDS noted the importance of the general comments and recommendations made by treaty bodies, which served to interpret or elaborate further the various treaty provisions, provided guidance to States parties when reporting, summarized the current practices of the treaty bodies, and clarified language and definitions relating to the various rights. In this connection, UNAIDS suggested that treaty bodies be encouraged to undertake the elaboration and adoption of general comments or recommendations in relation to HIV/AIDS.

54. UNAIDS noted with satisfaction that a number of relevant general comments and recommendations had already been adopted by treaty bodies on such topics as the right to non-discrimination, the right to privacy, freedom of expression, freedom of movement, the right to education and the right to health. These all have a bearing on HIV/AIDS. It encouraged treaty bodies to adopt further general comments that may be useful in this regard, such as on the

right to work, the right to enjoy the benefits of scientific progress, the right to liberty and security of person and the right to freedom of assembly and association, to assist States in clarifying major prevention and care issues relating to HIV/AIDS.

55. UNAIDS welcomed the initiative of the Committee on the Rights of the Child of holding a day of general discussion on "Children and young people living in a world with HIV/AIDS". This day of general discussion, held on 5 October 1998, contributed to raising awareness of issues pertaining to children infected by, affected by and vulnerable to HIV/AIDS, and led to the adoption of recommendations by the Committee on the Rights of the Child on ways in which States can better report on this issue and further integrate HIV/AIDS-related strategies into their national policies and programmes. UNAIDS encouraged other treaty bodies to engage in similar discussions on HIV/AIDS-related rights in order to promote understanding of their content and implications.

Comments by interested persons

56. Mr. Diaconu suggested several improvements in relation to the examination of States parties' reports that could be undertaken immediately. First, all treaty bodies could improve their methods of work, reduce repetition and make better use of available meeting time. Second, the conclusions and recommendations could be prepared in a more succinct manner, while maintaining expressions of concern where appropriate and relevant recommendations thereon. More numerous and better prepared staff in the secretariat could assist the treaty bodies to better fulfil their responsibilities. A non-governmental organization could be entrusted with collecting and presenting the necessary information to members of treaty bodies in an impartial manner. Mr. Diaconu considered that it would be difficult to accept that the secretariat be entrusted with the task of preliminary examination of reports, or that the role of experts and the dialogue with States parties be limited to a written procedure, at the risk of losing the most valuable tool at the disposal of the treaty bodies today, namely direct and effective dialogue.

III. OBSERVATIONS

57. The achievement of universal ratification of the main international human rights treaties remains a top priority of the United Nations. The High Commissioner for Human Rights is committed to achieving universal ratification by 2003 and, in collaboration with the Secretary-General, has periodically appealed to States to ratify those treaties to which they are not already a party.

58. The question of ratification has received high priority in discussions undertaken between the Office of the High Commissioner for Human Rights and its key partner agencies and departments in the United Nations system. A noteworthy example was the memorandum of understanding concluded in 1997 between the Office and the United Nations Development Programme (UNDP), in which the promotion of ratification of the human rights treaties featured prominently as a common objective. A programme entitled "Human Rights Strengthening" (or "HURIST") has been developed jointly by the Office and UNDP to make available practical tools for the implementation of the memorandum of understanding during the period 1999-2001. Through "window 3" of HURIST, a series of workshops is foreseen, to be held at the regional, subregional or national level with the participation of representatives of States that are not parties

to most of the principal treaties. The workshops would aim at enabling in-depth discussion among participants on the obstacles to ratification and formulation of concrete strategies to overcome them, in keeping with the request of the 1993 World Conference on Human Rights[1] for the Secretary-General to initiate a dialogue with non-States parties.

59. In addition, the High Commissioner for Human Rights has been working to elaborate a regional strategy for each major geographic region. One of the main elements of such a strategy is the nomination of regional advisers. Justice P.N. Bhagwati is assisting as regional adviser to the High Commissioner for Asia and the Pacific. Among the principal responsibilities of the regional advisers is to engage in a high-level policy dialogue with senior officials of countries in the region on all areas relating to human rights, including the question of ratification of the human rights instruments.

60. The situation with respect to overdue reports has remained a serious issue. In the most extreme case, over 40 per cent of the States parties to the International Covenant on Economic, Social and Cultural Rights have failed to submit even their initial reports. The existence of a large number of States that do not comply with their reporting obligations detracts significantly from the capacity of the treaty-monitoring system to serve its intended purpose.

61. While no clear consensus has yet been reached on the desirability of consolidating reports due under the various treaties, a number of treaty bodies have moved towards a more focused examination of States parties' reports. This is most apparent in the lists of issues or questions formulated by most treaty bodies requesting clarification on specific parts of States parties' reports or on specific rights. Practical difficulties, however, remain in reducing the reporting burden on States parties at the point where it would be most useful, namely *before* the preparation of their reports. There is, therefore, a need for further reflection on ways to streamline the reporting process.

62. To make the requirements of the reporting process as clear as possible, the secretariat has, at the request of various bodies, begun to produce several compilations of basic information from the treaty bodies of relevance to that process. Pursuant to General Assembly resolution 53/138, a compilation of reporting guidelines of the six human rights treaty bodies is being prepared and is to be issued by the time of the fifty-sixth session of the Commission as document HRI/GEN/2. The compilation of general comments has been updated and will soon be issued as document HRI/GEN/1/Rev.4. In accordance with a request emanating from the 11th meeting of chairpersons of the human rights treaty bodies, a new document outlining the recent reporting history of all States parties to all the treaties is to be prepared annually that would list the last periodic report submitted under each treaty and either the next report due or, if the State party was not up to date with its obligations, any outstanding periodic reports. These documents should clarify the situation of all States parties with respect to the reports due from them under the treaties, not only for States parties but also for the interested public. In addition, a compilation of the rules of procedures of all the treaty bodies is also being prepared.

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[1] Vienna Declaration and Programme of Action (A/CONF.153/24) (Part I), chap. III, sect. II.A, para. 4.

63. These documents will soon be accessible to the general public through the United Nations Human Rights Website (www unhchr ch), as are a large number of documents issued by and submitted to the treaty bodies. Considerable progress has been made in recent years in relation to the Website and the treaty bodies database which is linked to the Website. Information on that subject is contained in the report of the Secretary-General to the fifty-sixth session of the Commission on the implementation of resolution 1998/27 of the Commission (E/CN 4/2000/106).

64. Concerning the advisory services provided by the United Nations, training programmes on the preparation of States parties' reports to treaty bodies are aimed at imparting skills and insights helpful to fulfilling their reporting obligations. Countries sending participants are encouraged to provide the necessary opportunities for their representatives to train colleagues working in areas of relevance to the reporting process upon their return from such programmes. In addition, a number of training workshops and programmes on reporting have been or are being undertaken at the national level within the framework of the technical cooperation programme of the United Nations in the field of human rights and the Plan of Action to strengthen implementation of the Convention on the Rights of the Child. While the main purpose of such workshops is training the relevant domestic audience, including representatives of all ministries and agencies that would eventually be involved in the reporting process, they also have a secondary effect of already contributing to the formation of a domestic network for the preparation of reports. For the countries that participated in such training workshops, the "concentrated assistance" recommended by the independent expert has proven to be quite beneficial. Details on those projects is contained in document E/CN.4/2000/105.

65. Finally, most treaty bodies are seeking to strengthen their cooperation with their partners in the United Nations system. In addition to the already close cooperation between the Committee on the Rights of the Child and the United Nations Children's Fund, strong progress has been made recently between the Committee on Economic, Social and Cultural Rights and UNDP. A number of other specialized agencies also contribute regularly or occasionally to the work of the treaty bodies on specific matters of direct relevance to their own work. The chairpersons of treaty bodies have regularly discussed with representatives of United Nations departments, bodies and specialized agencies the state of cooperation between them and the treaty bodies at their annual meetings. The meetings of chairpersons could be used as the forum for the type of discussions recommended by the independent expert.

UNITED
NATIONS

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Economic and Social
Council

Distr
GENERAL

E/CN.4/2000/98/Add.1
9 March 2000

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-sixth session
Item 18 (a) of the provisional agenda

EFFECTIVE FUNCTIONING OF HUMAN RIGHTS MECHANISMS

TREATY BODIES

Report of the Secretary-General on the consultations conducted in respect of the report of the independent expert on enhancing the long-term effectiveness of the United Nations human rights treaty system

Addendum

Additional comments received on the recommendations of the independent expert

1. The Food and Agricultural Organization of the United Nations (FAO) transmitted its comments on the final report of the independent expert on enhancing the long-term effectiveness of the United Nations human rights treaty system, which were requested pursuant to resolution 1998/27 of the Commission on Human Rights and resolution 53/138 of the General Assembly, in a letter addressed to the Deputy High Commissioner for Human Rights dated 10 December 1999. The present report contains a summary of the response from FAO and should be read together with the main report containing the comments received (E/CN.4/2000/98). The following comments correspond to section II.K of the main report, entitled "Cooperation with the specialized agencies and other bodies".

2. FAO indicated that it could provide assistance to OHCHR and the treaty bodies by providing information that would be useful in the monitoring process. Such information should be shared on a routine basis between the relevant offices, attention being paid to ensuring that the most relevant information reaches the right recipients and does not lead to information overload.

FAO was prepared to be a serious partner in developing feasible approaches to the right to food, to achieving food and nutrition security, and to collaborating actively with OHCHR, particularly in view of the possibility that lessons drawn from the right to food may be useful in dealing with other economic, social and cultural rights.

3. FAO considered it important that the normative advances made in recent years in relation to the right to food be fully drawn upon. It cited in this regard General Comment No. 12 on the right to adequate food of the Committee on Economic, Social and Cultural Rights, in the elaboration of which FAO had been actively involved. FAO believed that future reviews of the implementation of that right should be based on the structure of the General Comment, which provided a comprehensive overview of the elements comprising the content of the right to food, as well as a broad typology of State obligations to fulfil them. The General Comment also provided a framework for the selection of relevant data, which the treaty bodies would then be able to use in their review of State party reports. Where information was lacking, the constructive dialogue between treaty bodies and States parties could lead to requests for specific assistance from the technical agencies aimed at enabling States to fill the information gaps and thereby begin to make progress in the realization of that right.

4. FAO agreed on the need, over the longer term, to rethink the effectiveness of the human rights treaty system. Innovative mechanisms such as the United Nations Development Assistance Framework, Common Country Assessments and the Administrative Committee on Coordination (ACC) Network on Food Security and Rural Development could serve to improve the quality of the national reporting process and help donor countries make that process more meaningful. FAO indicated its willingness to pursue technical discussions on the matter within the ACC Sub-Committee on Nutrition, where the issues of the provision of food and nutrition-related data from the wider United Nations system and their relevance to human rights monitoring had repeatedly been raised in recent years.

5. While expressing interest in participating in a senior-level meeting between the Committee on Economic, Social and Cultural Rights and the specialized agencies, FAO considered it urgent that a system of responding to requests from the treaty bodies and OHCHR for country information be established, to enable informed interaction between food security experts and members of the Committee. In that regard, FAO proposed the holding of a two-day meeting at FAO Headquarters with members of the Committee, the OHCHR secretariat, and technical and legal focal points in FAO and in the FAO liaison office in Geneva. Such a meeting would aim at facilitating practical discussion on information requirements and at working out concrete modalities for strengthening cooperation between FAO and the Committee on a continuing basis.

UNITED
NATIONS

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Economic and Social
Council

Distr
GENERAL

E/CN.4/2000/99
13 January 2000

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-sixth session
Item 18 of the provisional agenda

EFFECTIVE FUNCTIONING OF HUMAN RIGHTS MECHANISMS

Security of United Nations personnel

Report of the Secretary-General

CONTENTS

		Paragraphs	Page
I.	INTRODUCTION	1 - 5	2
II.	INFORMATION RECEIVED FROM GOVERNMENTS	6	3
	New Zealand	6	3
III.	VIEWS AND COMMENTS OF UNITED NATIONS BODIES AND AGENCIES, AND OF OTHER ORGANIZATIONS	7 - 10	3
IV.	INFORMATION PROVIDED BY THE FEDERATION OF INTERNATIONAL CIVIL SERVANTS' ASSOCIATIONS (FISCA)	11 - 15	3
V.	STATUS OF THE CONVENTION ON THE SAFETY OF UNITED NATIONS AND ASSOCIATED PERSONNEL	16 - 17	4

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I. INTRODUCTION

1. In its resolution 1998/37, the Commission, gravely concerned at the recent increase in attacks and the use of force against United Nations and other personnel acting under the authority of United Nations operations as well as personnel of international humanitarian organizations, including murder, physical and psychological threats, hostage-taking, shooting at vehicles and aircraft, mine-laying, looting of assets and other hostile acts, called upon all States and others concerned to respect and ensure respect for the rights of United Nations and other personnel carrying out activities in fulfilment of the mandate of United Nations operations, to provide adequate and prompt information concerning the arrest or detention of United Nations and other personnel carrying out activities in the fulfilment of the mandate of a United Nations operation, to grant the representative of the competent international organization immediate access to such personnel, to allow independent medical teams to investigate the health of detained United Nations and other personnel and to afford them the necessary medical assistance, to allow representatives of the competent international organization to attend hearings involving United Nations and other personnel provided that such attendance was consistent with domestic law, to ensure the speedy release of United Nations and other personnel who had been arrested or detained in violation of their immunity in accordance with relevant conventions and applicable humanitarian law, and to ensure that the perpetrators of unlawful acts against United Nations and other personnel were held accountable for their actions. The Commission also called upon States to consider promptly becoming parties to the Convention on the Safety of United Nations and Associated Personnel.

2. The Commission requested the Secretary-General to submit to it at its fifty-sixth session a report on the situation of United Nations and other personnel carrying out activities in fulfilment of the mandate of a United Nations operation who were imprisoned, missing, or held in a country against their will, on new cases which had been successfully settled as they related to the principles set out in the International Covenants on Human Rights, and on the implementation of the measures referred to in resolution 1998/37. The present report is submitted pursuant to that request.

3. In accordance with resolution 1998/37, on 22 September 1999 the Secretary-General addressed a note verbale to all Member States requesting information relevant to the implementation of the resolution. Requests for information were also sent on the same date to the United Nations agencies concerned and to relevant international organizations.

4. A response to the note verbale was received from the Government of New Zealand.

5. Responses were received from the International Atomic Energy Agency, the International Civil Service Commission, the International Labour Office, the International Trade Centre, the Office for the Coordination of Humanitarian Affairs, the Office of the United Nations High Commissioner for Refugees, the United Nations Relief and Works Agency for Palestine Refugees in the Near East, the United Nations University, the World Federation of United Nations Associations and the World Meteorological Organization.

II. INFORMATION RECEIVED FROM GOVERNMENTS

New Zealand

6. The Government of New Zealand reported measures it has taken to ensure the safety and security of United Nations personnel and to ensure that the perpetrators of unlawful acts against United Nations and other personnel are held accountable for their actions. Specifically, the Government reported that New Zealand ratified the Convention on the Safety of United Nations and Associated Personnel on 16 December 1998. The Crimes (Internationally Protected Persons and Hostages) Amendment Act (1998), which amended the Crimes (Internationally Protected Persons, United Nations and Associated Personnel, and Hostages) Act (1980), implemented the Convention in New Zealand law. The New Zealand Government welcomed the Convention's entry into force on 15 January 1999.

III. VIEWS AND COMMENTS OF UNITED NATIONS BODIES AND AGENCIES, AND OF OTHER ORGANIZATIONS

7. The International Atomic Energy Agency, the International Trade Centre, the International Labour Office, the United Nations University, the World Federation of United Nations Associations and the World Meteorological Organization reported that they did not have staff members imprisoned, missing or held in a country against their will.

8. The International Civil Service Commission, the Office of the United Nations High Commissioner for Refugees and the Office for the Coordination of Humanitarian Affairs noted that the United Nations Security Coordinator was in possession of all information on the security of their staff. These organizations deferred to the information supplied by that Office.

9. The United Nations Security Coordinator is preparing a comprehensive report for submission to the General Assembly on this topic.

10. The United Nations Relief and Works Agency for Palestine Refugees in the Near East reported that the number of UNRWA staff members who had been arrested and detained had increased to 73 from 61 in the previous reporting period. Most of the staff concerned had been released after relatively short periods of detention.

IV. INFORMATION PROVIDED BY THE FEDERATION OF INTERNATIONAL CIVIL SERVANTS' ASSOCIATIONS

11. The Federation of International Civil Servants' Associations (FICSA) expressed its deepest concern over the current conditions of safety and security of United Nations staff. It noted that the safety and security of United Nations staff has deteriorated considerably over the past years and that today, more than ever before, United Nations staff were victims of kidnapping, arrest, rape, attack, theft, expulsion, harassment and murder.

12. FICSA noted that working for the United Nations made people potential targets for violence.

13. In particular, FICSA is worried about the situation of locally recruited United Nations staff. It noted that, since 1993, 95 per cent of United Nations staff who have been killed were locally recruited. An area of concern for FICSA is the situation of locally recruited staff in times of evacuation. While internationally recruited staff are evacuated, local staff are abandoned.

14. In the light of the ongoing security threats to United Nations staff in the field, FICSA continues to urge the United Nations and its specialized agencies to harmonize security measures for United Nations staff so that they apply to international and local staff equally.

15. In particular, FICSA encourages the United Nations to take concrete action, and urges the harmonization of security measures for all United Nations staff in the next revision of the Field Security Handbook, which is scheduled for 2000. The revision, in its view, should also undertake the harmonization of safety and security measures to ensure that all persons suspected or accused of crimes against United Nations staff members are brought to trial before the International Criminal Court and that offices are relocated and/or activities and programmes suspended as required to ensure the safety and security of staff.

V. STATUS OF THE CONVENTION ON THE SAFETY OF UNITED NATIONS AND ASSOCIATED PERSONNEL

16. In its resolution 49/59, the General Assembly adopted the Convention on the Safety of United Nations and Associated Personnel, which entered into force on 15 January 1999, 30 days after 22 instruments of ratification, acceptance, approval or accession had been deposited with the Secretary-General.

17. As of October 1999, there were 43 signatories and 29 parties to the Convention.